

F.B.I. FILES DISCLOSE TIES TO A.C.L.U. IN '50'S

NYF 8-4-77

Rights Group Gave Data on Activity and Members to the Bureau

By ANTHONY MARRO

For about seven years in the 1950's a number of officials of the American Civil Liberties Union gave the Federal Bureau of Investigation on a continuing basis information about the organization, its activities and some of its members, according to materials obtained from the bureau's files.

In addition, the materials suggest that several of the officials asked the bureau to help them to identify Communist Party members who might be trying to gain seats on the boards of the A.C.L.U.'s state affiliates. There is no indicator that the bureau complied with these requests.

One result of this activity was that the F.B.I. opened files on scores of persons whose names they received and tried to determine whether any of them had been engaged in "subversive" activities.

Two of the persons who appear to have given the bureau information in some instances said yesterday that in that Cold War period the F.B.I. appeared to be acting to protect civil rights, and it was not

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until later that the country became aware of what it was doing.

Current leaders of the A.C.L.U. said, however, that there was no justification for giving some of the information to the bureau, and that they were distressed to learn that it had been given.

How Materials Were Obtained

The materials were obtained by the A.C.L.U. through a request under the Freedom of Information Act and subsequently made available to The New York Times. They show that between 1953 and 1959 a number of officials, including the head of the A.C.L.U.'s Washington office, Irving Ferman, advised the bureau on an irregular but continuing basis of activities that the organization was planning.

"The files show that on a number of occasions, almost entirely during the McCarthy era, certain persons who were then A.C.L.U. officials were in contact with the F.B.I. to provide or obtain information about the political beliefs or affiliations of other A.C.L.U. members and officials, particularly those who were thought to be Communists," Norman Dorsey, the A.C.L.U. chairman, and Aryeh Neier, its executive director, said in a statement released yesterday.

"Whatever their motive, such contacts with the F.B.I. were wrong, inexcusable and destructive of civil liberties principles. These incidents took place in a dif-

ferent era and are contrary to the way the A.C.L.U. operates today."

Materials Are Listed

The materials given the F.B.I. included correspondences between A.C.L.U. officials; minutes of meetings of various state affiliates; drafts of position papers, memorandums, lists of officers and bits of gossip about internal feuds.

Much of this was routinely passed on by bureau officials to the F.B.I.'s domestic intelligence division for analysis and then sent to local field offices to be incorporated in their files.

One communication from the A.C.L.U.'s southern California affiliate was passed along by Mr. Ferman to a bureau official with a notation saying "there is no question in my mind [that] this is a product of Communist coercion."

On another occasion, the files show, Mr. Ferman sent a letter to that same official, Louis B. Bichols, then the No. 3 man in the bureau, disclosing the names of two persons who had tried to get the A.C.L.U.'s help in organizing a campaign against the House Committee on Un-American Activities.

Authenticity Not Disputed

Mr. Ferman, in a telephone interview yesterday, said that he could not recall many of the incidents described in the F.B.I. files but did not dispute the authenticity of the documents.

He would not comment on his motives in turning such material over to Mr. Nichols but said that it was "absolutely not" his intention that the bureau open files on persons named in the documents.

However, in a statement that he prepared for the current leadership of the A.C.L.U., he said that the policy of the A.C.L.U. leadership at that time was to develop and maintain a close relationship with the F.B.I. and other Government agencies.

"The policy reflected a recognition that particularly during the Cold War period of the '50's, there was need for some clear channels to those agencies operating in the political framework similar to that of the union," he said.

A 'Friend' of the F.B.I.

He added that this did not mean that the A.C.L.U. endorsed the policies and practices of the bureau, but simply reflected "the wisdom that any struggle

for human liberty requires many, many battle stations."

Mr. Ferman, who is referred to in F.B.I. files as a "friend" of the bureau, and who once proposed that the late J. Edgar Hoover be given a civil liberties award, is now a professor of law at Howard University in Washington.

There is no suggestion in the F.B.I. files made public to date that Mr. Ferman or any others were ever paid informers, or that the F.B.I. in any real sense "infiltrated" the A.C.L.U. as it did the Socialist Workers' Party and the Communist Party U.S.A. in the 1950's.

Rather, it appears that much of the material was given to the bureau by a small number of A.C.L.U. officials who feared that members of the Communist Party were gaining influence over A.C.L.U. state affiliates or who wanted to alert the bureau to what it considered anti-F.B.I. positions being taken by some of the A.C.L.U.'s members.

Some of this concern is reflected in a memo from Mr. Nichols to Clyde Tolson, then Mr. Hoover's top deputy, which suggests that there was concern at the A.C.L.U.'s national headquarters that it was not able to exert control over the state affiliates.

In this memo, Mr. Nichols quoted a person whose name was deleted by the F.B.I. before the document was released, as saying that he feared some of the affiliates "have been infiltrated and unless steps are taken will soon be controlling the national organization."

Action Termed Inexcusable

In an interview yesterday, Mr. Neier, the current executive director, said that even though there was a prohibition in the 1950's against Communists and Fascists serving on A.C.L.U. governing bodies, that was no excuse for the organization's officials to give information to the F.B.I.

"This led to the creation of F.B.I. dossiers on A.C.L.U. members," he said. "We don't know what use the F.B.I. made of the dossiers, but we do know generally that dossiers have been used, [by the bureau] to harm people."

In addition, Edward J. Ennis, who was a general counsel to the A.C.L.U. at the

time, said that the disclosure that certain A.C.L.U. officials had given information to the bureau "came as a surprise to me," and that such action had never been endorsed by the board of directors.

The F.B.I. documents are part of a block of more than 10,000 documents from bureau files that have been provided to the A.C.L.U. in recent months.

One problem in trying to analyze them is that many of the participants are dead and are in no position to contradict what F.B.I. officials say about them in the reports.

Memorandum Is Cited

For example, one memorandum from Mr. Nichols, who died recently, to Mr. Tolson, who died in 1975, states that the late Patrick Murphy Malin, who was executive director of the A.C.L.U. in the 1950's, was concerned about Communists being on the boards of the state affiliates and sought F.B.I. help.

"He then told me he had been on the alert for the advancement of names to the A.C.L.U. who might be the tools of Communism," Mr. Nichols wrote. "So far, he had not spotted any, and if we got any word of this he would appreciate being tipped off."

Mr. Neier said yesterday that while it was clear that some A.C.L.U. officials had been in contact with the bureau and provided it with information, "we do not accept as necessarily truthful any F.B.I. document that characterizes a conversation with any individual."

He said that such documents should be regarded as hearsay and "not reliable."

Second Best

This was echoed by Herbert Monte Levy, a New York City lawyer who in the early 1950's was a staff counsel for the A.C.L.U. and who is mentioned in some of the documents as having given bits of information to the bureau.

Mr. Levy, in a statement that he drafted for the A.C.L.U., said that it troubled him that in the versions of conversations recorded in F.B.I. files "I either knuckle under to the F.B.I. position or see the light."

"In other words, I consistently come

out as second best to the F.B.I. personnel," he wrote. "I see nothing in the memorandum of instances where I persuaded the F.B.I. representative of the correctness of my position, but . . . there were several instances."

Among the material in the F.B.I. files suggesting that there had been contacts with A.C.L.U. officials are the following:

Memorandums from Mr. Nichols to his superiors that assert that the late Morris Ernst, then the general counsel to the A.C.L.U., alerted the F.B.I. to the anti-F.B.I. sentiment of some union members and to plans of some A.C.L.U. members to attack the bureau.

Memorandums from Mr. Nichols suggesting that Mr. Malin, the former executive director, had confided that he was having problems with affiliates in Detroit, Los Angeles, Denver and Seattle, and was seeking the bureau's help in "trying to keep Communists off the board of directors."

A memo from Mr. Nichols to Mr. Tolson saying that Mr. Levy had been concerned about reports that nine members of the board of the A.C.L.U.'s Maryland affiliate were Communist Party members and "was wondering if I could give him any guidance."

Cannot Recall Statement

Mr. Levy, the only one of the above three who is alive to rebut the assertion, said yesterday that he could not recall this, could not imagine ever having said it, and was certain that he had never given the F.B.I. any information that could be used against other A.C.L.U. members.

In addition, in a statement that he drafted for the current A.C.L.U. membership, he defended his becoming engaged in a dialogue with F.B.I. officials, saying that this had worked to the advantage of the organization.

"Under the circumstances as we then knew them . . . it was thoroughly advantageous to the A.C.L.U. and to the cause of civil liberties to enlist the aid of the F.B.I. whenever we could do so in support of civil liberties—then under severe attack by McCarthyism—and to intend to use the good offices of the F.B.I. to set the record straight when anyone mistakenly claimed A.C.L.U. was a Communist organization," he said.

Of great concern to current officials, however, is the fact that the F.B.I. in this period received material, some of it apparently from Mr. Ferman, that included minutes of meetings held by A.C.L.U. affiliates in Colorado, Oregon, Pennsylvania, California, Massachusetts and Illinois, and some documents from the national headquarters.

Field Offices Got Data

In most cases, the bureau appears to have sent the minutes to the field offices where the affiliates were situated and told local agents to check current files and public sources of information for anything suggesting "subversive" activities on the part of persons listed as having attended the A.C.L.U. meetings.